

STAFF REPORT

TO: Planning & Economic Development Committee **DATE:** 01/26/16

FROM: Todd Okolichany, AICP, Planning & Urban Design Director

PREPARED BY: Shannon Tuch, RLA, Principal Planner

SUBJECT: Wording Amendment – ADU's as part of a Homestay operation

Summary

A report exploring the option to expand Homestay operations in the City of Asheville by allowing the use of Accessory Dwelling Units (ADUs) as part of the operation.

Background

Over the last two years, the City of Asheville has been engaged in a long and public conversation over the proliferation of short term rentals in the city's jurisdiction, and how best to regulate these rentals. Following a great deal of public input, the City Council has decided to retain its longtime prohibition on unoccupied, whole house (or dwelling unit) rentals in residential districts. However, on November 17, 2015, Council approved an ordinance amending standards for *Homestays*. This amendment removed several barriers and made it easier to establish a Homestay as a form of short-term rental that requires a full-time resident (resident-manager) of the property to live in the home while guests are present. This is reinforced in the ***Unified Development Ordinance*** (UDO) definition for Homestay which is as follows:

Homestay means a private, resident occupied dwelling, with up to two guest rooms where overnight lodging accommodations are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building. A homestay is considered a "Lodging" use under this UDO.

While the amendment successfully expanded the opportunity to obtain a Homestay permit, it did not allow the use of an ADU's on the property to be used as part of the Homestay operation since these units were, by definition and by design, separate units and could not be occupied by both the resident(s) and guests. On December 8, 2015, the Asheville City Council requested that staff reexamine the use of ADU's as part of a Homestay and share its findings with the Planning & Economic Development Committee.

Review and Analysis

The definition of *Dwelling unit* applies to a variety of residential housing including apartments or other multi-family units, condominiums, townhomes, single family homes and accessory dwelling units. *Dwelling unit* is defined in the city's ***Unified Development Ordinance*** (UDO) as:

Dwelling unit means one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. In no case shall a dwelling unit be rented or leased for intervals of less than one month (emphasis).

The different types of dwelling units are further defined, including *Accessory dwelling unit*. That definition is as follows:

Accessory dwelling unit means a separate and complete dwelling unit that is contained on the same lot as the structure of a single-family dwelling or business.

ADU's have been allowed in Asheville for quite a while and pre-date the city's current UDO. More recently in 2015 the ADU standards were amended to increase the square footage allowances and remove other barriers to their permitting. ADU's may be attached to, or separate from, the single family home. They commonly occur in day-lighted basements, attics, and detached garages or other detached structures that are on the same property as the primary single family home. ADU's have been supported as an effective means of adding residential infill units and, because the units are limited in size, they often fall within an affordable range based on the area's median income, as defined by Housing & Urban Development (HUD), helping to achieve other city adopted goals for affordable housing.

Under the UDO as currently written, to rent a residential dwelling unit for less than one month (30 days) means that the home can no longer be classified as a *Dwelling unit* and it changes its use category from a residential use to a lodging (commercial) use. The Homestay ordinance sought to maintain the integrity of the residential districts by prioritizing and maintaining the primary residential use of the home while sharing it with a subordinate lodging activity. In addition to preserving housing in the city, having a full-time resident in the home serves as an effective means to discourage and/or control potential nuisance issues that can result from a commercial activity. Of the many complaints received over the years regarding illegal short term rentals, very few, if any, originated from homes that were occupied with a resident-manager. Another important consideration is that the resident-manager is also believed to be a valuable life-safety component for a home that is designed under a less restrictive residential building code, when being used for a commercial purpose.

Unlike a whole house rental, the use of an ADU would still provide the opportunity for oversight and control by having a resident-manager on the property, albeit in a separate unit from the guests. It would also provide greater privacy, for both residents and guests, creating a more comfortable living and lodging environment. To a large degree the concerns over character, compatibility and harmony are still addressed with the resident-manager being on the property, even if they are in a separate unit.

Recommendation:

Not applicable. The information provided in this report is at the Council's request. Should the Council wish to proceed with a wording amendment to allow the use of ADU's as part of a Homestay operation, staff would recommend that the following UDO sections be amended:

7-14-3(b)(3)(a)(3)

3. Accessory dwelling units shall not be considered as additional dwelling units for the purpose of:
 - a) determining minimum lot size, ~~or~~ b) determining maximum density, or c) establishing a homestay.

7-16-1(c)(9)(c)

- c. The homestay operation shall be managed and carried on by a full-time resident of the property who shall be present and residing ~~in the home~~ **on the property** when lodgers are present. Present and residing ~~in the home~~ means the full-time resident shall not be staying overnight ~~outside of the home~~ **away from the property** for reasons such as vacation, visiting with friends or family, or travelling out of town for business or personal reasons. Temporary absences related to normal residential activity such as shopping, working, attending class, etc. are permitted. A minimum of two documents establishing proof of residency shall be supplied from an approved list of documents.